

REMARKS

This communication is being filed within two month of the mailing of a final office action and is intended to place the application in condition for allowance, or to at least reduce the issues upon appeal, and therefore it's entry is respectfully requested. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and the remarks that follow.

By the present amendment, claims 114, 116, 122, 123, 127, 128, 136, 137, and 141 are amended, claims 115, 142-143 are canceled, and no claims are added. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. The claim amendments address the allowable subject matter as indicated by the Examiner in the Final Office Action, and as discussed during the Interview, as referenced below. Amendments to several withdrawn claims are made to make those claims independent, but with each and every element of the allowable claim from which the withdrawn claim previously depended. Such amendments bring those withdrawn claims in conformity for rejoinder to, and concurrent allowance with, the remaining claims. After amending the claims as set forth above, claims 114 and 116-141 will be pending, with claims 123-127 and 137-141 withdrawn from consideration as directed to a non-elected invention, and claims 1-113 having been canceled by previous amendment.

As an initial matter, Applicant's Representative Jeffrey Lomprey thanks Examiner Nerangis for discussing the pending application and Final Office Action in an Interview on March 23, 2010. Amendments as put forth above were discussed, and Examiner Nerangis indicated that such amendments would overcome the cited art of record.

Allowable Subject Matter

Applicant also notes that in the Office Action of January 26, 2010, claim 142 was indicated as being allowable if re-written in independent form. Accordingly, claim 128, from

which claim 142 was formerly dependent, has been amended with the content of claim 142. As such, former claim 142 is presented in the form of independent claim 128. Applicant submits that claim 128, and all that depend therefrom, are now allowable, and respectfully request that the Examiner allow the application to proceed to issuance.

Final Office Action

Waddington

Claims 114, 121, and 122 stand rejected under 35 U.S.C. §102(b) as being anticipated by Waddington (U.S. 6,11,006), and claims 119 and 120 stand rejected under 35 U.S.C. §103(a) as unpatentable over Waddington. Applicant respectfully traverses this rejection.

Claim 114 has been amended to include the elements of former claim 115, which was noted by the Examiner to be free of the teachings of Waddington. As such, Applicant submits that the grounds for rejection based upon Waddington are overcome, and Applicant requests that the Examiner withdraw the rejection and allow the application to proceed to issuance.

Noda

Claims 114-122, 128-136, and 143 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Noda *et al.* (U.S. 6,808,795). Applicant respectfully traverses this rejection.

Independent claims 114 and 128 have been amended to include the elements of former claim 142, designating that the first PHA and the second PHA are *miscible*. As noted by the Examiner on page 5 of the Final Office Action, such an amendment of claim 128 renders that claim allowable, and Applicant respectfully requests that the allowance of claim 128 be acknowledged.

Applicant notes that claim 114 has similarly been amended to require that “the first PHA and the second PHA are miscible.” Applicant believes that this clearly distinguishes Noda from this claim as well, in the same manner as with respect to claim 128. The Examiner also

acknowledged during the interview that such an amendment would overcome the rejection based on Noda. As such, Applicant respectfully requests allowance of claim 114 and its dependent claims.

Horowitz

Claims 128, 132-136, and 143 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Horowitz (U.S. 6,228,934). Applicant respectfully traverses this rejection.

As noted above, independent claim 128 has been amended to include the elements of former claim 142, which the Examiner considers to be allowable. As such, Applicant respectfully requests withdrawal of the rejection based upon Horowitz, and that the application be allowed to proceed to issuance.

Request for Rejoinder of Withdrawn Claims

After entry of the present amendments, Applicant submits that the claims are in condition for allowance. Applicant notes that claims 123-127 and 137-141 were previously withdrawn as being directed to a non-elected invention. As claims 123-127 and 137-141 are related to the allowable product claims, as a method of making the allowable product or making other products with the allowable product, and because these claims contain all of the elements of the product claims, Applicant respectfully requests that the withdrawn claims be rejoined to the application and allowed to proceed to issuance.

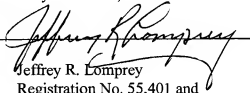
Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Date: April 5, 2010

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4288
Facsimile: (608) 258-4258

Respectfully submitted,

By

A handwritten signature in black ink, appearing to read "Jeffrey R. Lomprey", written over a horizontal line.

Jeffrey R. Lomprey
Registration No. 55,401 and
Steven G. Davis
Registration No. 39,652
Attorneys for Applicant